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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 30186 (Sub.-No.2)

**TONGUE RIVER RAILROAD COMPANY, INC. –
CONSTRUCTION AND OPERATION – ASHLAND TO DECKER, MONTANA**

**FOUR MONTH REPORT OF
TONGUE RIVER RAILROAD COMPANY, INC.**

**ENTERED
Office of Proceedings**

MAR 2 - 2012

**Part of
Public Record**

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Company, Inc.

March 2, 2012

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**FOUR MONTH REPORT OF
TONGUE RIVER RAILROAD COMPANY, INC.**

Tongue River Railroad Company, Inc. ("TRRC") hereby submits this four month report as required by the Board's decision in STB Finance Docket No. 30186 (Sub No. 2), issued on November 8, 1996. As TRRC has previously advised the Board in its July 8, 2011 Four Month Report and its August 29, 2011 Amended Four Month Report, as of July 1, 2011, TRRC is now under new ownership.

The Board served its decision in STB Finance Docket No. 30186 (Sub-No. 3) on October 9, 2007 granting TRRC's application to construct and operate a 17.3-mile rail line known as the Western Alignment in Rosebud and Big Horn Counties, Montana. The decision became effective on November 8, 2007. Certain parties sought judicial review in the U.S. Court of Appeals for the Ninth Circuit of the Board's decisions in Finance Docket Nos. 30186 (Sub No. 2) ("*TRRC II*") and 30186 (Sub No. 3) ("*TRRC III*"). *See Northern Plains Resource Council, et al. v. Surface Transportation Board, et al.*, Nos. 97-70037, 97-70099, 97-70217, 07-74348. On December 29, 2011, the Court issued its decision. The Court affirmed the Board's decisions in part and reversed in part, remanding the cases to the Board to address certain deficiencies in the

Board's environmental reviews, including with respect to cumulative impacts analyses, the adequacy of baseline data and the consideration of a no-action alternative. The Petitioners sought reconsideration and rehearing by petitions filed on February 10 and February 13, 2012, asking the Court to expressly set aside or vacate the STB's decisions in *TRRC II* and *TRRC III*. The Board replied on February 22, 2012, acknowledging that the Court's decision had invalidated the authority granted to TRRC in *TRRC II* and *TRRC III* until the deficiencies in the environmental review are corrected and a new Board decision issued. The Court denied the petitions for reconsideration and rehearing on February 23, 2012, and the Ninth Circuit proceedings are now terminated.

On July 26, 2010, Northern Plains Resource Council ("NPRC") and Mark Fix filed with the Board a Petition to Reopen the Board's decisions in Finance Docket Nos. 30186, 30186 (Sub No. 2) and 30186 (Sub No. 3). The Petition was opposed by TRRC. On June 15, 2011, the Board issued a decision denying the Petition to Reopen. On July 25, 2011, NPRC and Mr. Fix jointly filed a Petition for Reconsideration of the STB's June 15 decision denying their Petition to Reopen. On August 25, 2011, TRRC filed a reply in opposition to the Petition for Reconsideration. A decision on the Petition for Reconsideration remains pending.

TRRC has continued to engage in the Section 106 consultation process with the Board. A meeting attended by representatives of the Board, other signatory agencies, TRRC and several Native American tribes was held in Rapid City, South Dakota, on June 21 – 23, 2011. Another meeting of many of the same parties, including TRRC, and some additional tribes was held in Rapid City on January 25-26, 2012.

By letter addressed to the Board's Office of Environmental Analysis ("OEA") dated September 2, 2011, TRRC advised OEA in connection with the Section 106 process that its new

owners have determined that they will not, in the reasonably foreseeable future, construct the portion of the TRRC line south of the Ashland/Otter Creek area, *i.e.*, the lines of rail at issue in the *TRRC II* and *TRRC III* proceedings. Instead, TRRC will concentrate on moving forward toward the construction of the line between Miles City and the Ashland/Otter Creek area that was the subject of the *TRRC I* proceeding.

Respectfully,



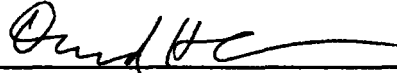
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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March 2012, a copy of the foregoing document was served via first class mail, postage prepaid, on all parties of record.

A handwritten signature in black ink, appearing to read "David H. Coburn", is written over a horizontal line.

David H. Coburn